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Remarks/Arguments

As of the Action, Claims 1-20 are pending in the Application. Claims 1-6 stand rejected. Claims 7-20 are withdrawn.

Applicant herein amends Claim 1 to clarify the subject matter therein claimed. Applicant herein also amends Claims 7, 8, 12-18 and 20 to remove a "contemporaneously cut" limitation. Although Claims 7, 8, 12-18 and 20 are withdrawn under the Action, Applicant submits that the underlying restriction is improper and, in any case, the Claims, as amended, should be examined with Claims 1-6.

Applicant further submits that these amendments add no new matter.

Applicant notes that this Amendment and Response changes neither the number of independent claims nor the number of total claims; and, as such, no excess claims fees are due.

Applicant further notes that this Amendment and Response is being filed within the three month shortened statutory period and, as such, no extension of time is required. However, if any such extension of time is determined to be required, this shall serve as a request for any such required extension, pursuant to 37 CFR 1.136.

Applicant submits that all Claims are in condition for allowance. Applicant also submits that, if this Amendment and Response is determined not to place the Application in condition for allowance, this Amendment and Response clearly places the Application in better form for appeal and, on that basis, it should be entered.

In view of the Claims as set forth above and the remarks below, Applicant respectfully requests reconsideration and further examination of this Application.

Restriction of Claims. The Action restricts the Claims and, in so doing, withdraws Claims 7-20 from consideration.

Applicant traverses the restriction as lacking sufficient support. To illustrate, Applicant traverses, because (i) the Action's classifications inexplicably diverge among the "Inventions" and (ii) as to each of at least "Inventions" II and III, the Action's classifications appear to be inconsistent with the claimed subject matter.

The Action puts Claims 1-6 in class 30, subclass 133, directed to implements in which the material is drawn away from the cutter by suction. Instead of similarly putting Claims 7-13 and Claims 14-20 in class 30, subclass 133, the Action instead puts these Claims, respectively, in class 30, subclass 134 and class 30, subclass 201: (a) subclass 134 directed to implements that grip the material to be cut, i.e., wherein the gripping is between two jaws on the cutting blade; and (b) subclass 201 directed to shears having a regulator that is adjustable relative to the cutter organization, i.e., wherein the cutter is provided with some means by which the length of the cut may be regulated.

The divergence among these classifications is not supported or supportable. Although Applicant is not suggesting any one particular classification, Applicant submits that these 20 Claims merit one, reasonable classification. Moreover, Applicant submits that these 20 Claims merit examination at once, without restriction.

Applicant further submits that, if the Action has properly classified Claims 1-6, all Claims apparently could be put in the same class/subclass. That is, Applicant notes that Claims 1-6 are classified based on "suction", but that the "suction arrangement" element of this "Invention" appears in dependent Claim 5. Similarly, Claims 7-13 include a "suction arrangement" element, which appears in dependent Claim 12. Claims 14-20 also include a "suction" element, which appears as a "suction opening" in Claim 14. Accordingly, assuming Claims 1-6 are properly in class 30/subclass 133 based on an element of a dependent claim, the other two groups of Claims apparently could be so-classified, e.g., based on a "suction" element respectively of a similar dependent claim or of the independent claim itself.

In view of the arguments above and the amendments of various withdrawn Claims, Applicant respectfully requests reconsideration and withdrawal of the restriction, as well as examination of these 20 Claims together.

Rejections of Claims. The Action rejects Claims 1-6 under 35 U.S.C. §102(b) and §103(a) as being unpatentable over Gaskins U.S. Patent No. 2,946,122 ("Gaskins") and Severson U.S. Patent No. 1,506,139 ("Severson"), including in view of Woodward U.S. Patent No. 2,496,613 ("Woodward"). (Individually and collectively, Gaskins, Severson and Woodward are referred to below as the "Cited References".)

As to Claim 1, the Action states that each of Gaskins and Severson teach all elements of the Claim. In particular, the Action states that each of Gaskins and Severson teach a "movable portion ...arranged and positioned to cooperate with the hair to be cut."

Applicant traverses the rejections. First, Applicant submits that the amendments to clarify the "cooperation" limitation of Claim 1 render moot the rejections.

Second, Applicant respectfully submits that the Action's designations to the Cited References do not make a prima facie case for rejection of Applicant's Claims, as amended, as such designations do not teach/suggest all Claim elements, and arrangements thereof. To illustrate, under amended Claim 1, Applicant submits that the Action's designations to, and statements respecting, the Cited References fail to indicate disclosure directed to Applicant's "movable portion being arranged and positioned to cooperate with the hair to be cut dependent on the nature and condition of the hair".

Further as to Claim 1, Applicant respectfully re-submits (by reference) the arguments set forth in Applicant's previous filing.

As to dependent Claims 2-6, Applicant respectfully submits that the Action is also absent a proper prima facie case of non-patentability, e.g., for the same reasons as set forth for Claim 1

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(In that, each of these dependent Claims depends variously from, and thus includes the limitations and arrangements of Independent Claim 1).

In view of the foregoing, Applicant requests that the Action's rejections be reconsidered and withdrawn.

CONCLUSION

Applicant respectfully submits that, in view of the foregoing remarks and/or amendments, the Claims pending in the Application are in condition for allowance. Applicant respectfully requests reconsideration and favorable action.

Generally, in this Amendment and Response, Applicant has not raised all possible grounds for (a) traversing the rejections of the Action or (b) patentably distinguishing the new Claims (i.e., over the cited references or otherwise). Applicant, however, reserves the right to explicate and expand on any ground already raised and/or to raise other grounds for traversing and/or for distinguishing, including, without limitation, by explaining and/or distinguishing the subject matter of the Application and/or any cited reference at a later time (e.g., in the event that this Application does not proceed to issue with the Claims as herein amended, or in the context of a continuing application). Applicant submits that nothing herein is, or should be deemed to be, a disclaimer of any rights, acquiescence in any rejection, or a waiver of any arguments that might have been raised but were not raised herein, or otherwise in the prosecution of this Application, whether as to the original Claims or as to any of the new Claims, or otherwise. Without limiting the generality of the foregoing, Applicant reserves the right to reintroduce one or more of the original Claims in original form or otherwise so as to claim the subject matter of those Claims, both/either at a later time in prosecuting this Application or in the context of a continuing application.

The Applicant understands that no fees are due. However, if necessary, the Commissioner is hereby authorized to charge any fees, including extension fees, or to charge any additional fees or underpayments, or to credit any overpayments, to the undersigned attorney's Deposit Account No. 50-1001; provided, however, that such fees, underpayments or overpayments must arise solely in connection with this Amendment and Response. Otherwise, the Commissioner should review and follow any authorization previously given by Applicant to charge certain such fees and credit certain such overpayments to the Applicant's separate Deposit Account (No. 14-1270).

Respectfully submitted,



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